

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Tanieka D. Gause,)	Civil Action No.:
)	
Plaintiff,)	
)	
v.)	NOTICE OF REMOVAL
)	
Jurdon L. Thompson, Jr., and)	
ARCO Design/Build, LLC,)	
)	
Defendants.)	
)	

Defendant ARCO Design/Build, LLC (“ARCO” or “Defendant”) by and through its undersigned counsel, and pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, hereby gives notice that it has removed from the Horry County Court of Common Pleas the action titled *Tanieka D. Gause v. Jurdon L. Thompson, Jr., and ARCO Design/Build, LLC*, Case No. 2021-CP-26-04488, to this Court, the United States District Court for the District of South Carolina, Florence Division.

The removal is based on the following grounds:

A. Timeliness of Removal

1. On or about July 7, 2021, Plaintiff Tanieka D. Gause (“Plaintiff”) commenced this civil action in Horry County Court of Common Pleas by filing a Summons and Complaint. Plaintiff subsequently, on or about January 6, 2022, filed an Amended Summons and Complaint to add Defendant ARCO to the action.

2. On January 19, 2022, Defendant was served with the Amended Summons and Complaint. (Exhibit A, State Court Documents.) Removal is timely as it was effected within 30 days of the service of the Summons and Complaint on Defendant. 28 U.S.C. § 1446(b)(2)(B).

B. Diversity Jurisdiction

3. At the time the Complaint was filed, at the time of removal, and at all intervening times, ARCO Design/Build, LLC was, and is, a limited liability company. For purposes of determining the existence of diversity jurisdiction, the citizenship of a limited liability company is the citizenship of its members. *See Cent. W. Va. Energy Co. v. Mountain State Carbon, L.L.C.*, 535 F.3d 101, 103 (4th Cir. 2011). ARCO Design/Build, LLC has only one member, ARCO DB Companies, Inc. ARCO DB Companies, Inc. is a Delaware Corporation with its principal place of business in Atlanta, Georgia. Thus, ARCO Design/Build, LLC is a citizen of Georgia and Delaware. *See* 28 U.S.C. § 1332(c)(1).

4. Plaintiff alleges that she is a resident of South Carolina. (Amended Compl., ¶ 1.)

5. Plaintiff further alleges that Defendant Jurdon L. Thompson, Jr. (“Thompson”) is a resident of the State of Texas. (Amended Compl., ¶ 2.)

6. Accordingly, Plaintiff and Defendants are citizens of different states and complete diversity exists. Defendant Thompson consents to removal of this case.

C. Amount in Controversy

7. The amount in controversy exceeds the sum or value of \$75,000 exclusive of interest and costs. 28 U.S.C. § 1332(a)(1).

8. Plaintiff alleges that a “collision” occurred when Defendant Thompson “negligently and recklessly failed to yield the right of way and pulled into the path of Plaintiff’s vehicle.” (Amended Compl., ¶¶ 9-10.)

9. Plaintiff further alleges that, as a result of the incident, she “suffered severe, painful, and permanent injuries.” (Amended Compl., ¶ 10.)

10. Plaintiff alleges that “the negligent, reckless, willful, and or wanton acts or omissions committed by Defendant Thompson were done in the course and scope of his employment with Defendant ARCO.” (Amended Compl., ¶ 17.) Consequently, Plaintiff alleges that ARCO “is liable to Plaintiff for all damages” allegedly caused by the incident that is the subject of this lawsuit. (Amended Compl., ¶ 18.)

11. As a result, Plaintiff alleges she is entitled to actual and punitive damages from ARCO (Amended Compl., Final Paragraph titled “WHEREFORE”).

12. “When a specific amount is not specified in the complaint, ‘[t]he object which is sought to be accomplished by the plaintiff may be looked to in determining the value of the matter in controversy.’” *Stewart v. AT&T Mobility LLC*, 2011 U.S. Dist. LEXIS 92537, at *7 (D.S.C. July 21, 2011) (citing *Cannon v. United Ins. Co.*, 352 F. Supp. 1212, 1217 (D.S.C. 1973)). “Punitive damages ‘must be included in the calculation of the amount in controversy.’” *Id.* at *8 (citing *Am. Health & Life Ins. Co. v. Heyward*, 272 F. Supp. 2d 578, 581 (D.S.C. 2003)).

13. “It is the Court’s experience that the plaintiff’s bar rarely seeks less than ten times damages for punitive damages.” *Woodward v. Newcourt Commer. Fin. Corp.*, 60 F. Supp. 2d 530, 532 (D.S.C. 1999).

14. Based on Plaintiff’s allegations that she was subjected to “pain and suffering,” has sustained “injuries to and about her body” causing “limitation of motion” and “permanent impairment, injuries, and disabilities,” has incurred medical bills, has sustained property damage, and has suffered loss of income and “enjoyment of life,” the amount in controversy exceeds to the sum or value of \$75,000 exclusive of interest and costs.

15. For the above reasons, the amount in controversy in this case exceeds the jurisdictional threshold in 28 U.S.C. § 1332(a)(1) and this Court has subject-matter jurisdiction.

16. Accordingly, this case is removable under 28 U.S.C. § 1441(a).

D. Compliance with 28 U.S.C. § 1446

17. A copy of all process and pleadings filed by Plaintiff are attached hereto as Exhibit A. Contemporaneously with the filing of this Notice of Removal, written notice has been served upon Plaintiff through Plaintiff's counsel of record and a true and correct copy of this Notice of Removal has been or will be filed with the Clerk of Court for Horry County, South Carolina, as required by 28 U.S.C. § 1446(d).

18. The Court of Common Pleas for Horry, South Carolina is located within the jurisdiction of the United States District Court for the District of South Carolina, Florence Division; therefore, this Court is the proper one for removal of this action.

19. Defendant has submitted the required filing fee to the Clerk of the Court.

20. By filing this Notice, Defendant does not waive any defense that may be available to them.

WHEREFORE, Defendant respectfully requests that the action now pending in the State of South Carolina, Horry County, Court of Common Pleas, as Case No. 2021-CP-26-04488, proceed before this Court as an action properly removed.

Dated: February 18, 2022

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